

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXASBY g
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ROSA ESTELLA OLVERA JIMENEZ,
PETITIONER,

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V.

CAUSE NO. A-12-CV-373-LY

LORIE DAVIS,

RESPONDENT.

**ORDER ON REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the court are Respondent's Opposed Motion to Alter or Amend Judgment filed November 22, 2019 (Doc. #56) and Respondent Davis's Opposed Motion for Stay filed November 25, 2019 (Doc. #57), along with Petitioner's Response to Motion to Stay with Alternative Request for Release on Bond filed December 20, 2019 (Doc. #68), all of which were referred to the United States Magistrate Judge for findings and recommendations pursuant to 28 U.S.C. ' 636(b) and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrates, as amended. Also before the court is Respondent's Unopposed Motion to Expedite Consideration of Respondent's Motion to Stay filed January 8, 2020 (Doc. #7). Following a hearing on January 14, 2020, at which counsel for both parties appeared and argued before the court, the magistrate judge filed a Report and Recommendation on January 14, 2020 (Doc. #77), recommending that this court deny as moot the motion to alter or amend judgment, deny the motion to stay, and dismiss Petitioner's alternative request for release on bond.

Respondent Davis's Objections to Report and Recommendation were filed January 22, 2020 (Doc. #79). In light of Respondent's objections, the court has conducted a *de novo* review of the entire case file in this action and concludes that the Report and Recommendation is correct and should be accepted and adopted by the court for substantially the reasons stated therein.

Respondent does not object to the magistrate judge's recommendation to dismiss the motion to alter or amend judgment, and Petitioner does not object to the recommendation to dismiss the alternative request for release on bond. The majority of Respondent's objections once again dispute the magistrate judge's interpretation of the determinations made by the Texas Court of Criminal Appeals, arguing that the magistrate judge's recommendation to grant habeas relief was erroneous, which is not before the court at this time. To the extent that the objections do address the factors to be considered in a request to stay following a habeas grant, the court determines that the magistrate judge's recommendations are not erroneous. Therefore, the court will overrule Respondent's objections.

IT IS THEREFORE ORDERED that Respondent Davis's Objections to Report and Recommendation (Doc. #79) are **OVERRULED**.

IT IS FURTHER ORDERED that the United States Magistrate Judge's Report and Recommendation filed January 14, 2020 (Doc. #77), is hereby **APPROVED** and **ACCEPTED** by the court as stated herein.

IT IS FURTHER ORDERED that Respondent's Opposed Motion to Alter or Amend Judgment filed November 22, 2019 (Doc. #56) is **DISMISSED**.

IT IS FURTHER ORDERED that Respondent Davis's Opposed Motion for Stay filed November 25, 2019 (Doc. #57) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Alternative Request for Release on Bond filed December 20, 2019 (Doc. #68) is **DISMISSED**.

Having denied the motion to stay,

IT IS FINALLY ORDERED that Respondent's Unopposed Motion to Expedite Consideration of Respondent's Motion to Stay filed January 8, 2020 (Doc. #70) is **DISMISSED**.

SIGNED this 24th day of January, 2020.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE